

Remarks

This Amendment is being filed concurrently with a Request for Continued Examination ("RCE"). Reconsideration and allowance of this application, as amended, are respectfully requested.

Claims 1, 16, 19, and 20 have been amended. Claims 1 and 4-20 remain pending in the application. Claims 1, 16, 19, and 20 are independent. The rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein. No new matter has been introduced through the foregoing amendments.

Claims 1, 16, 19, and 20 have been amended to even more particularly define the *structural* aspects of the control unit feature of the claimed blood treatment unit. More specifically, claims 1, 16, 19, and 20 have been amended to overcome the examiner's objection to certain elements of the claim language as being "statements with regard to the intended use" (Office Action page 5, numbered paragraph 13). Instant claim 1, for example, specifies that the control unit feature is configured "to automatically initiate a beginning of a subsequent time mode." Claims 16, 19, and 20 have been similarly amended. Entry of each of the amendments is respectfully requested.

35 U.S.C. § 102(b) – Ellingboe

Claims 1 and 4-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0085952 to Ellingboe et al. (hereinafter "Ellingboe").

The rejection of claims 1 and 4-20 under § 102(b) based on Ellingboe is respectfully deemed to be obviated. For at least the following reasons, the disclosure of Ellingboe does not anticipate Applicant's presently claimed invention.

Instant claim 1 defines an embodiment of the invention in which "the control unit [is] configured

(i) to identify the respectively running time mode and to instruct the display and input unit to show the corresponding mode means selected from other mode means, by showing the other mode means in a first type of symbol and the selected mode means in a second type of symbol,

(ii) to establish an end of at least one of the time modes,

(iii) to automatically initiate a beginning of a subsequent time mode, and

(iv) to communicate the initiation of the time mode to the display and input unit for changing the representation of the selected mode means."

The Office Action relies upon the disclosure of Ellingboe's Figure 30A and paragraph [0257] (Office Action page 3, paragraph 3e) and paragraphs [0250], [0257], and [0258] (Office

Action page 3, paragraph 3f). But, Ellingboe fails to disclose Applicant's claimed feature of "automatically initiat[ing] a beginning of a subsequent time mode."

For example, the disclosure of Ellingboe's Figure 30A focuses on an electronic manual, including instructions to the user of the blood perfusion system. In the screen depicted in Figure 30A, for example, the headline reads "*Follow instructions and then press 'Load' to go to Load screen*" (emphasis added), and each of the depicted items is associated with an instruction to the user. Clearly, each of the depicted steps requires *user interaction*. Therefore, the disclosure of Ellingboe's Figure 30A teaches away from an *automatic* initiation of a subsequent mode of operation.

Similarly, in paragraph [0250] as relied upon by the Office Action, Ellingboe teaches that "[i]n addition to tab 242, a plurality of other tabs *may be selectively employed* to access different screen sets. As will be further described, *tabs 244, 246, 248, 250, 252, and 254 are available for selection and use at any time during setup or during bypass procedures and will illuminate upon selection*" (emphasis added). Clearly, a system with tabs that "may be selectively employed" and tabs that "are available for selection and use" requires *user interaction*.

The Office Action also relies upon Ellingboe's disclosure in paragraphs [0257] and [0258]. But, each of the aforementioned

paragraphs discloses a system that requires *user interaction*.

Paragraph [0257] reads as follows:

Main Tab: Tab 242 in region 240 is used to *guide the operator through a sequence of steps to setup, load, and prime the tubing set, run the bypass procedure, run post-bypass steps, and, finally, unload the tubing set*. In this regard, the title of tab 242 changes to "User Setup", "Load", "Auto-Prime", "Main", and "Unload" as the major steps of the procedure are executed, and where "Main" covers both bypass and post-bypass operations. (Emphasis added)

Paragraph [0258] reads as follows:

Many of the operations encompassed by the Main tab are sequential in nature, meaning that one step must be completed before the next step(s) can be accomplished. Therefore, the screens in tab 242 enforce this sequential nature by both the instructions presented in message block 245, and by not "enabling" *touch screen buttons* corresponding to later steps until the required prerequisite steps are completed. A button that is not enabled does nothing *when touched*, and also has a "dimmed out" look, where the text on the button is in a gray color, rather than bright white as exhibited on buttons that are "enabled". The figures discussed below will illustrate this concept many times. (Emphasis added)

That is not Applicant's claimed invention. An important feature of the instant invention is that it provides for the *automatic* selection of operating modes. That is, claim 1 specifies in pertinent part that the control unit is configured "(ii) to establish an end of at least one of the time modes" and "(iii) to automatically initiate a beginning of a subsequent time mode."

Ellingboe's system is structurally and functionally different from Applicant's presently claimed blood treatment unit in another respect. The Office Action relies upon the disclosure

of Ellingboe's Figure 30A and paragraph [0257] (Office Action page 3). But Applicant again submits that Ellingboe, which is directed to a perfusion system, fails to disclose Applicant's claimed features of "blood treatment preparation means," "blood treatment means," and "blood treatment after preparation means."

Claim 1, for example, defines a blood treatment unit that includes a display and input unit having "a plurality of mode means selectable to influence operation of a *hemodialysis treatment*" (emphasis added). Accordingly, the claimed blood treatment preparation means, blood treatment means, and blood treatment after-preparation means should be interpreted in the context of the claim as relating to *dialysis treatment*.

Therefore, Ellingboe's device is structurally and functionally different from the embodiment of Applicant's invention that is defined by instant claim 1. Since Ellingboe does not meet each feature of the presently claimed invention, Ellingboe does not anticipate the invention defined by claim 1. Claims 5, 6, and 10-15 are allowable because they depend, either directly or indirectly, from claim 1, and for the subject matter recited therein.

As indicated above in the introductory remarks, independent claims 16, 19, and 20 have been amended in a manner that parallels the amendment of claim 1. Accordingly, claims 16-20 are similarly allowable.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an


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interview might expedite prosecution, the examiner is invited to
contact the undersigned.

Respectfully submitted,

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